IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

OP.No. 34935 of 2001(H)

PETITIONER:

V.T.ANTONY,
VELUTHEDATH HOUSE,
EDACOCHIN, COCHIN – 6.

BY ADV. SRI.T.O.XAVIER

RESPONDENTS:
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1. **TAHSILDHAR (R.R.),**
   KOCHI.

2. **DISTRICT COLLECTOR,**
   ERNAKULAM.

3. **UPASANA FINANCE LTD.,**
   36/1203, ALFA BUILDING,
   LISSIE JUNCTION, COCHIN – 682 018.

BY GOVERNMENT PLEADER SRI.C.K.GOVINDAN for R1&R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.34935/2001 H

ORDER ON C.M.P.NO.57035/2001 IN O.P.NO.34935/2001 H

DISMISSED

09/02/2007 **SD/-C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 3RD RESPONDENT DTD. 29/04/1999.**

EXT.P2: **COPY OF THE SALE NOTICE OF IMMOVABLE PROPERTY STATING DTD. 20/11/2001 FOR AUCTION SALE.**

/TRUE COPY/

KSS

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.34935 of 2001

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Dated this the 9th day of February, 2007.

JUDGMENT

Petitioner's case is that the vehicle in respect of which motor vehicle tax is demanded was repossessed by the financier and the demand pertains to the period when vehicle was not in petitioner's possession or use. However, G form furnished by the petitioner though with delay, was rejected for being incomplete. The Act provides for recovery of motor vehicle tax from registered owner or from the person in possession and control of the vehicle. By virtue of Section 3(3) of the Act the tax could have been recovered even from the third respondent who repossessed the vehicle. It is not known whether the registration of the vehicle was changed or vehicle was transferred in the name of third respondent or whether the vehicle was permitted to be sold and in all such cases clearance if any would have been given by the R.T.O. only after payment of tax. In any case petitioner being registered owner can be proceeded against for recovery by virtue of Section 3(3) of the Act. The O.P. is closed leaving freedom to the respondents to proceed for recovery against the petitioner and the financier

both being alternately liable under Section 3(3) of the Act, if tax is not already paid.

C.N.RAMACHANDRAN NAIR
Judge

pms